

The 9th August, 1971

No. 8264-4Lab-71/26181.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of Messrs Rohtak Delhi Transport Co. (P) Ltd., Rohtak :—

BEFORE SHRI O.P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 41 of 1969

between

THE WORKMEN AND THE MANAGEMENT OF MESSRS ROHTAK-DELHI TRANSPORT
CO. (P) LTD., ROHTAK

Present—

Shri S.N. Vats, for the workmen.

Shri Chanchal Singh, for the management.

AWARD

The Governor of Haryana in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, was pleased to refer the following dispute existing between the management of Messrs Rohtak-Delhi Transport Co. (P), Ltd., Rohtak, and their workmen for adjudication to this Tribunal,—*vide* Order No. ID/RK/43-C-69/19679-83, dated 9th July, 1969, with the following terms of reference.

Whether the workmen are entitled to bonus for the year 1967-68 at a rate higher than 4 per cent minimum bonus already declared by the management under the Payment of Bonus Act, 1965 ?

On receipt of the reference usual notices were given to the parties calling upon them to put in their respective statements. The workmen filed the statement of claim on 8th October, 1969 with the allegations that the company had earned huge profits in the year 1967-68 and as such there was no justification for declaring bonus at 4 per cent only and that taking into consideration the very sound financial position of the company they were entitled to bonus at 25 per cent.

The management filed the written statement on 23rd October, 1969 controverting the above allegations of the workmen. It was urged that although the financial position of the company did not warrant more than the minimum of 4 per cent bonus the workmen had been paid bonus at 6 per cent as a gesture of good will after the demand notice dated 11th November, 1968 and the present reference had, therefore, become infructuous. The management has also raised a preliminary objection that the present dispute was not an industrial dispute as the same had not been sponsored by any substantial section of the workmen of the respondent company. My learned predecessor framed the following preliminary issue on 18th December, 1969 :—

Whether the reference has not been sponsored by a substantial section of workmen of the respondent concern and therefore there is no industrial dispute ?

Shri S.N. Vats, authorised representative of the workmen made his statement on oath with reference to resolution passed by 27 out of total 83 workmen of the respondent company, copy, Ex. W.W. 1/1 whereby the above demand for bonus was raised. Shri Chanchal Singh authorised representative of the management made his statement on 15th January, 1970 admitting that the number of workmen in the said company on 31st October, 1968 was 83 as stated by Shri S.N. Vats. The management did not adduce any evidence on the preliminary issue.

My learned predecessor decided the preliminary issue in favour of the workmen on 15th January, 1970 holding that the present dispute had been properly espoused by a substantial number of workmen of the respondent company and as such the reference of the dispute was perfectly valid.

The only other issues that arises for determination in the case is as per the term of reference stated above. The management has filed the balance sheet for the relevant period along with the profit and loss accounts statement as also the computation chart in form 'A' under the payment of Bonus Rules, 1965. The workmen have not produced any evidence in support of their claim for higher bonus. None of them has come forward to make his statement on oath nor has their authorised representative filed the computation chart in spite of getting suitable adjournments for the purpose.

I have heard the learned representatives of the parties and given due consideration to the facts on record. The balance sheet and accounts filed by the management for the relevant period are audited by the registered Chartered Accountant Messrs N.D. Kapoor and Co., New Delhi and as such the same have to be presumed to be correct under section 23 of the Payment of Bonus Act, 1965. The learned authorised representative of the workmen has not been able to point out any mistake in the said accounts. From the perusal of the above accounts filed by the management in the case read with the computation chart, it would be clear that the respondent company had no surplus income available for Payment of Bonus for the relevant period over and above the minimum 4 per cent bonus payable under the law. It will not be out of place to mention here that as per the written statement of the management additional 2½ per cent bonus had been paid to the workmen as a gesture of good will after the receipt of demand notice, dated 11th November, 1968. None of the workmen could have the courage to come into the witness box and make a statement on oath in denial of the above contention raised on behalf of the management.

That disposes of the entire case and for the reasons discussed above the issue involved is decided against the workmen and it is held that they are not entitled to bonus for the year 1967-68 at a rate higher than what has already been paid to them by the management.

In view of my above finding the workmen are not entitled to any relief in the present reference. The award is made accordingly but without any order as to costs.

O. P. SHARMA,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Dated 22nd July, 1971.

No. 811, dated 27th July, 1971

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

O. P. SHARMA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 22nd July, 1971.

No. 8265-4Lab-71/26183.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of Messrs Rohtak-Delhi Transport (P) Ltd., Rohtak.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA,
FARIDABAD.

Reference No. 133 of 1970

between

THE WORKMEN AND THE MANAGEMENT OF MESSRS ROHTAK-DELHI TRANSPORT
(P) LTD., ROHTAK.

Present:

Shri S.N. Vats, for the workmen.

Shri Chanchal Singh, for the management.

AWARD

Some industrial disputes existing between the management of Messrs Rohtak-Delhi Transport (P) Ltd., Rohtak, and their workmen were referred for adjudication to this Tribunal by the Governor of Haryana in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947,—*vide* order No. ID /RK/43F-70/30503-7, dated 28th September, 1970, with the following terms of reference:—

- (1) Whether Shri Balram Dass should be given the job of Adda Incharge and considered as such with effect from 23rd September, 1969 ? If so, with what details ?
- (2) Whether the workers are entitled to higher quantum of bonus for the year 1968-69 than 15 days bonus already paid to them ? If so, with what details ?
- (3) Whether Shri Amar Nath, Carpenter, should be given any benefit of weekly rest, casual leave, sick leave, annual leave and bonus ? If so, with what details ?

On receipt of the reference usual notices were given to the parties calling upon them to put in their respective statements. The statement of claim on behalf of the workmen was filed on 19th January, 1970, with the following allegations:—

- (1) That Shri Balram Dass, Adda Incharge, had been made Conductor without any justification on 23rd September, 1969, and as a result of this illegal order he had been deprived of Rs 75 special allowance and Rs 20 prize money per month to which he was fully entitled.
- (2) That the entire staff was entitled to bonus at 20 per cent for the year 1968-69 ?
- (3) That Shri Amar Nath, Carpenter, was entitled to the benefit of weekly rest, casual leave, sick leave, annual leave and bonus.
- (4) That the scheme of gratuity should be introduced in the respondent company.
- (5) That the Haryana Motor Transport Workers Union should be recognized by the company under the Code of Discipline.

The management filed the written statement on 14th January, 1971, controverting the above allegations of the workmen. It was urged that Shri Balram Dass had all along been a conductor and never as Adda Incharge, that the financial position of the company did not justify the claim of the workmen for higher bonus, that the service of Shri Amar Nath had been terminated by the management and as such there was no relationship of employer and employee so far this workman was concerned. It was further urged that Shri Amar Nath had raised a separate dispute against the order of termination of his services which was pending before the Labour Court at Rohtak,—*vide* reference No. 67 of 1970. In their rejoinder filed on 11th February, 1971, the workmen disputed the above pleas raised on behalf of the management and reiterated their claim in support of their demands referred to above. On 11th February, 1971, however, it was conceded by the learned representative of the workmen that Shri Balram Dass had settled his claim with the management and was no longer interested in the present reference. The following issues arising from the pleadings of the parties were, therefore, framed:—

- (1) What is the effect of reference No. 67 of 1970 pending before the Labour Court so far as Shri Amar Nath, workman, is concerned ?
- (2) Whether Shri Balram Dass should be given the job of Adda Incharge and considered as such with effect from 23rd September, 1969 ? If so, with what details ?
- (3) Whether the workers are entitled to higher quantum of bonus for the year 1968-69 than 15 days bonus already paid to them ? If so, with what details ?
- (4) Whether Shri Amar Nath, Carpenter, should be given any benefit of weekly rest, casual leave, sick leave, annual leave and bonus ? If so, with what details ?
- (5) Relief ?

The management has placed reliance upon the balance-sheet and the profit and loss account statement for the relevant period and the computation chart in form 'A' under the Payment of Bonus Rules, 1965, which were filed along with the written statement. The workmen have not adduced any evidence and their authorised representatives has not even filed the computation chart as required under the law.

I have heard the learned representatives of the parties and considered the facts on record. As stated above, Shri Balram Dass has already settled his claim with the management and is no longer interested in the present reference. Issue No. 2 is accordingly decided against him.

There is no denying the fact that the services of Shri Amar Nath, Carpenter have been terminated by the management and he has raised a separate dispute which is pending before the Labour Court at Rohtak,—*vide* reference No. 67 of 1970. He has not come forward even to make his statement in support of the present claim and the presumption is that he is also not interested in the present reference. However, with a view to avoid any clash of decision and prejudice to the rights of the parties in the aforesaid reference pending before the Labour Court at Rohtak, I would prefer not to express any opinion with regard to the demands raised on behalf of Shri Amar Nath covered by issues Nos. 1 and 4. He may seek his remedy in the said reference before the Labour Court or after the disposal of the same, as he may be advised.

So, the only other issue covered by the present reference which arises for determination in the case is issue No. 3 regarding the higher quantum of bonus claimed by the workmen for the year 1968-69. The management has filed the balance sheet and accounts for the relevant period which are duly audited by the registered Chartered Accountant Messrs N.D. Kapoor and Co., New Delhi and the same has to be presumed to be accurate as contemplated under section 23 of the Payment of Bonus Act, 1965. The learned authorised representative of the workmen has not been able to point out any mistake in the said accounts, nor has any of the concerned workmen come forward to make his statement on oath in support of the claim for higher bonus what to speak of leading any evidence, documentary or oral, to show that the respondent company had earned profits to justify the present claim. A perusal of the balance sheet, profit and loss account statement read with the computation chart filed by the management in form 'A' of the Payment of Bonus Rules, 1965, would leave no doubt whatever in concluding that the respondent company had no surplus income available for the relevant period to entitle the workmen to higher bonus as claimed by them. The learned authorised representative of the workmen has not been able to satisfy me to the contrary. For the reasons discussed above, issue No.3 is decided against the workmen.

In view of my above finding on the main issue involved in the case, the workmen are not entitled to any relief and their claim for bonus at a rate higher than what has already paid to them by the management is not well-founded. The award is made accordingly but without any order as to costs.

Dated 23rd July, 1971.

O.P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 810, dated the 27th July, 1971

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 23rd July, 1971.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

B.L. AHUJA,
Commissioner for Labour and Employments and Secy.